

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No. 1:20-cv-00954-WO-JLW

FARHAD AZIMA,

Plaintiff,

v.

NICHOLAS DEL ROSSO and
VITAL MANAGEMENT
SERVICES, INC.,

Defendants.

**PLAINTIFF'S RESPONSE
TO DEFENDANTS'
NOTICE OF CORRECTION
TO RECORD**

Plaintiff Farhad Azima reluctantly files this Response to Defendants' Notice of Correction to Record (ECF No. 402).

Defendants' Notice is an improper attempt to supplement the record regarding Defendants' appeal of the Special Master's ruling about privilege assertions and should be stricken by the Court *sua sponte* from the record.

Defendants' filing is problematic for the following reasons:

1. It is not a proper "notice." It contains argument and supplemental authority that are untimely and impermissible. As such, it constitutes an attempt to re-litigate the issue on appeal that has been fully briefed and argued.
2. The filing continues and expands upon the discussion that Defendants repeatedly engaged in during oral argument about whether they realized

the ruling they appealed concerned—in any respect—privilege logs, which of course it does.

3. The “new” March 1, 2024,^{*} privilege log that Defendants seek belatedly to inject into the case may be later in time than those Defendants previously submitted to this Court, but it is not improved and suffers from the same infirmities discussed at oral argument. Nothing changes the fact RAK has failed to submit to this Court’s jurisdiction for purposes of resolving privilege disputes, leaving Plaintiff entirely without recourse to challenge RAK’s privilege assertions.

Based on the foregoing, the Court should strike Defendants’ Notice and accompanying exhibits from the docket and decline to permit Defendants to supplement the record.

^{*} Defendants incorrectly assert that Plaintiff does not object to their March 1, 2024, privilege log. ECF No. 402 at 4. That assertion, while irrelevant to this appeal, is nonetheless inaccurate.

This, the 21st day of August, 2024.

WOMBLE BOND DICKINSON (US) LLP

/s/ Ripley Rand

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CERTIFICATE OF WORD COUNT

The undersigned certifies compliance with Local Rule 7.3(d) regarding length limitations. This memorandum contains fewer than 6,250 words. The undersigned has relied on the word count feature of Microsoft Word 365 in making this certification.

/s/ Ripley Rand
Ripley Rand
Counsel for Plaintiff

**UNITED STATES DISTRICT COURT
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Defendants.

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send electronic notification of this Notice to the following attorneys:

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This, the 21st day of August, 2024.

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